

REMARKS

I. Status of the claims

Claims 35-37 and 42-65 are pending in this application. Claim 35 has been amended to recite that at least one of radicals R¹, R³, R⁴ and R⁸ is chosen from -NH-C(O)-R¹⁵, wherein R¹⁵ is an aryl or a substituted aryl.¹ The amendment removes radical R² from the previous list of R¹, R², R³, R⁴ and R⁸ in that portion of the claim. The amendment does not now preclude defining R² as -NH-C(O)-R¹⁵, wherein R¹⁵ is an aryl or a substituted aryl. The amendment simply recites that at least one of radicals R¹, R³, R⁴ and R⁸ has that definition. Claim 35 continues to read on the compound elected in the Response to Restriction Requirement filed on September 24, 2004.

Support for the amendment to claim 35 appears throughout the specification, which at page 22, discloses compounds of formula I and identifies R¹, R³, R⁴ and R⁸ as, among other definitions, -NH-C(O)-R¹⁵, wherein R¹⁵ is defined as including an aryl or a substituted aryl. Line 14 of that portion of the specification indicates that radicals R¹, R², R³, R⁴ and R⁸ are defined "independently" of each other, which allows R² to be defined independently of R¹, R³, R⁴ and R⁸.

Claims 36 and 37, which recite chemical compounds, depend from claim 35. Claims 42-50 recite a process of making compounds and claim 51 covers a pharmaceutical composition. Claims 42 and 51 have been re-written in independent form to incorporate the compounds of claim 35 before the current amendment. In other words, the compounds incorporated in claims 42 and 51 recite that at least one of radicals R¹, R², R³, R⁴ and R⁸ is chosen from -NH-C(O)-R¹⁵, wherein R¹⁵ is an aryl or a substituted aryl. The amendments to claims 42 and 51 do not change the scope of the claims.

Claims 52-65 are pending but have been withdrawn. Applicants acknowledge the Examiner's indication on page 2 of the Office Action that the claims of group II (defined in the Office Action dated September 7, 2004, as being claims 52-65) can be rejoined once the claims of group I are found allowable.

¹ The specification defines the terms "aryl" and "substituted aryl" on page 18, lines 6-8 and 12-15.

II. Rejection under 35 U.S.C. § 102(b)

The Examiner rejected claims 35-37 under 35 U.S.C. § 102(b) as being anticipated by the disclosure of Agarwal et al., "Synthesis and Antifilarial Activity of Pyrido[3,4-b]imidazo[1,2-c']-Quinazolo[4,5-e]/[4,5-g]Indoles," Med. Chem. Res., vol. 3, pp. 523-530 (1994) ("Agarwal"), particularly in view of compounds 5 and 12 on page 524.

The compounds cited on page 524 of Agarwal should not anticipate the pending claims. The moieties on compound 5 that correspond in position to radicals R¹, R³, R⁴ and R⁸ in the compounds of the invention are amino, hydrogen, hydrogen and hydrogen, respectively. Compound 5 therefore does not teach the compounds of the invention where at least one of R¹, R³, R⁴ and R⁸ is chosen from -NH-C(O)-R¹⁵, wherein R¹⁵ is an aryl or a substituted aryl. Compound 12, on the other hand, carries a phenyl group at the position corresponding to radical R⁶ in the compounds of the invention. The disclosure of a phenyl group at that position does not teach any of the options for R⁶ defined in the claims. None of the remaining compounds disclosed on page 524 of Agarwal fall within the scope of the pending claims either.

The compounds disclosed in Agarwal would not render the pending claims obvious. The final products that Agarwal evaluated for activity, compounds 9, 10, and 15, are structurally quite different from those of the invention due to, for example, the large number of fused rings in their core structures in place of radicals R¹ and R² or R³ and R⁴ of the invention. The compounds cited by the Examiner, compounds 5 and 12, are simply disclosed as intermediates for use in the synthesis of the tested compounds. The disclosure of compounds 5 and 12 in this context would not have motivated the person skilled in the art to modify them in the ways necessary to make the claimed compounds. See *In re Lalu*, 223 U.S.P.Q. 1257, 1260 (Fed. Cir. 1984); *In re Gyurik*, 201 U.S.P.Q. 552, 557-558 (C.C.P.A. 1979).


Applicants acknowledge that the Examiner found claims 42-51 allowable. In view of the amendments and remarks above, all examined claims of group I should be in condition for allowance and the withdrawn claims of group II may be rejoined for examination.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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